

ASSEMBLY BILL

No. 844

Introduced by Assembly Member Dickinson

February 21, 2013

An act to amend Section 2944.7 of the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as introduced, Dickinson. Mortgage loan modification.

Existing law, applicable to residential mortgages, prohibits a person who negotiates, arranges, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation from, among other things, demanding or receiving any compensation until every service that the person contracted to perform or represented that he or she would perform is accomplished.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2944.7 of the Civil Code is amended to
2 read:
3 2944.7. (a) Notwithstanding any other ~~provision~~ of law, it
4 shall be unlawful for ~~any~~ a person who negotiates, attempts to
5 negotiate, arranges, attempts to arrange, or otherwise offers to
6 perform a mortgage loan modification or other form of mortgage

1 loan forbearance for a fee or other compensation paid by the
2 borrower; to do any of the following:

3 (1) Claim, demand, charge, collect, or receive any compensation
4 until after the person has fully performed each and every service
5 the person contracted to perform or represented that he or she
6 would perform.

7 (2) Take any wage assignment, any lien of any type on real or
8 personal property, or other security to secure the payment of
9 compensation.

10 (3) Take any power of attorney from the borrower for any
11 purpose.

12 (b) A violation of this section by a natural person is a public
13 offense punishable by a fine not exceeding ten thousand dollars
14 (\$10,000), by imprisonment in the county jail for a term not to
15 exceed one year, or by both that fine and imprisonment, or if by
16 a business entity, the violation is punishable by a fine not exceeding
17 fifty thousand dollars (\$50,000). These penalties are cumulative
18 to any other remedies or penalties provided by law.

19 (c) Nothing in this section precludes a person, or an agent acting
20 on that person's behalf, who offers loan modification or other loan
21 forbearance services for a loan owned or serviced by that person,
22 from doing any of the following:

23 (1) Collecting principal, interest, or other charges under the
24 terms of a loan, before the loan is modified, including charges to
25 establish a new payment schedule for a nondelinquent loan, after
26 the borrower reduces the unpaid principal balance of that loan for
27 the express purpose of lowering the monthly payment due under
28 the terms of the loan.

29 (2) Collecting principal, interest, or other charges under the
30 terms of a loan, after the loan is modified.

31 (3) Accepting payment from a federal agency in connection
32 with the federal Making Home Affordable Plan or other federal
33 plan intended to help borrowers refinance or modify their loans
34 or otherwise avoid foreclosures.

35 (d) This section shall apply only to mortgages and deeds of trust
36 secured by residential real property containing four or fewer
37 dwelling units.

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